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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/760,327	01/12/2001	John H. Chiloyan	MICR0199	2689

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EXAMINER	
DUONG, THOMAS	
ART UNIT	**PAPER NUMBER**
2145	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 09/760,327	**Applicant(s)** CHILOYAN ET AL	
	Examiner Thomas Duong	**Art Unit** 2145	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Please see attached Detailed Action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Argument

1. The Applicants' arguments and amendments filed on March 17, 2005 have been fully considered, but they are not persuasive.

2. With regard to *claims 1 and 23*, the Applicants point out that,

   - *Applicants respectfully disagree that providing a pointer to a location in an addressable memory of a peripheral device at which a network address is stored, ms recited in Claim 1, is a conventional known process. The Examiner has failed to cite any art that teaches or suggests using a pointer to identify a location in a memory of any peripheral device. Even if, arguendo, pointers are sometimes used to indicate a memory address in a personal computer, it is not obvious to provide a pointer to a host device that indicates a location of a network address in a memory of a peripheral device. No prior art has been cited to support the Examiner's assertion regarding this aspect of the claimed invention.*

   However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that Leigh discloses,

   - *said step of transferring comprising the steps of:*
     - *providing a pointer to a location in the addressable memory of the peripheral device at which the network address is stored;*
     - *communicating the pointer to the host device;*

- *using the pointer to access the location in the addressable memory of the peripheral device; and*
- *communicating the network address to the host device from said location.*

(Leigh, col.1, lines 65-66; col.2, lines 1-3, lines 45-48, lines 50-51; col.3, lines 1-6, lines 19-23; module 310, fig.3)

Leigh teaches of connecting the peripheral device to the destination computer and transferring the stored network address in the peripheral device to the destination computer. According to Leigh, *"the memory device can be a register, or the like, and stores the device identification (ID), and a network address, such as Universal Resource Locator (URL)"* (col.3, lines 3-6). Since the register is used to hold the actual interested data, the common idiom for accessing this register or memory location is to use a pointer whose value contains the register's address. Hence, it effect, what the Applicants is claiming is the conventional known process to access the data stored in a register using a programming pointer. Therefore, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

3. With regard to *claims 1 and 23*, the Applicants point out that,

- *Applicants respectfully disagree with the Examiner's interpretation of the word "requestor" as used by Fleming. The term "requester" as used by Fleming does not relate to any request made of a user.*

However, the Examiner finds that the Applicants' arguments are not persuasive and maintains that Fleming discloses,

- *said step of enabling communications comprising the steps of:*
    - *requesting permission of a user to communicate with the source; and*
    - *upon receiving permission to do so from the user, initiating the communication between the host device and the source to obtain information from the source pertaining to the peripheral device.* (Fleming, col.2, lines 6-10, lines 46-49; col.4, lines 17-20, lines 42-45)

Fleming states that by making *"the current driver accessible at a location specified by [a] URL on [the] network"* (col.4, lines 42-44), *"[it] allows current driver to be retrieved by a requester across the network"* (col.4, lines 44-45). This implies an interaction with the user or requester in order to access and retrieve the necessary driver from the network. Furthermore, according to Leigh, it is well known in the networking art, that *"a user must respond to a series of queries or prompts to install the driver onto the computer"* (col.1, lines 40-42). Hence, there is no novelty in requesting the user permission to communicate with the source in order to obtain the desired data as claimed. In addition, the Applicants also states that:

> *"connecting to the Internet and/or downloading drivers and other software materials is also a manual, time-consuming process that most users would prefer to avoid. In addition, such a manual process can present a problem for novice users, can delay the initial installation of a newly purchased peripheral device on a*

computer, and will clearly detract from user satisfaction with the peripheral device" (specification, pg.3, lines 29-35) and *"From the preceding discussion, it will be apparent that it would be preferable to enable the operating system on a computing device to automatically obtain any device driver required and any related software/document materials pertaining to a peripheral device that has just been connected to the computing device for the first time from a designated remote site via the Internet (or other network)"* (specification, pg.4, lines 1-5).

Hence, the Applicants have already teaches away from involving user interactions in favor of a *"fully automated"* process. Therefore, the Applicants still failed to clearly disclose the novelty of the invention and identify specific limitation, which would define patentable distinction over prior art.

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